

**ALBERTA GOVERNMENT SERVICES  
LAND TITLES OFFICE**

**IMAGE OF DOCUMENT REGISTERED AS:**

**071396900**

**ADVISORY**

**This electronic image is a reproduction of the original document registered at the Land Titles Office. Please compare the registration number on this coversheet with that on the attached document to ensure that you have received the correct document. Note that Land Titles Staff are not permitted to interpret the contents of this document.**

**Please contact the Land Titles Office at (780) 422-7874 if the image of the document is not legible.**

FORM 3

**NOTICE OF CHANGE OF BYLAWS**  
(The Condominium Property Act, S. 32)

**POINTE OF VIEW - CONDOMINIUM CORPORATION**

Condominium Corporation No. 0712898 (the "Corporation") hereby certifies that by a special resolution passed on the 31st day of May, 2007, the Bylaws of the Corporation were added to, amended or repealed as follows:

"Be it resolved as a special resolution of the Condominium Corporation No: 0712898 (the "Corporation") that the Bylaws of the Corporation as previously registered either Statutory or otherwise, be and they are hereby repealed and the Bylaws hereto annexed are hereby adopted as and made the Bylaws of and applicable to the Corporation and the Parcel referred to in Condominium Plan No: 0712898 from and after the date of this resolution."

IN WITNESS WHEREOF the seal of the Condominium Corporation No. 0712898 was affixed on the 31st day of May, 2007 in the presence of:

CONDOMINIUM CORPORATION  
NO: 0712898

Per:   
RANDY KLAPSTEIN

Per:   
CLARK HOGAN

**P.O.V. DEVELOPMENTS (DOWNTOWN) INC.**

**BY-LAWS OF  
CONDOMINIUM CORPORATION NO : 0712898**

**Vantage Pointe**

**IN SUBSTITUTION OF INITIAL BY-LAWS OF THE CORPORATION  
PURSUANT TO SECTION 33 OF THE CONDOMINIUM PROPERTY ACT,  
R.S.A. 2000, c.-22, if and as amended**

<b>INDEX</b>	<b>PAGE</b>
Definitions & Interpretation	02
Headings	04
Duties Of Owners	05
Duties & Powers Of The Corporation	07
The Board	10
Representative Of Company On Board	10
Signing Authorities	13
Corporate Seal	13
General Meeting	13
Notice Of General Meeting	14
Proceedings At General Meetings	14
Votes Of Owners	15
Violation Of By-laws	16
Damage Or Destruction	16
Insurance	18
Assessments For Common Expenses And Budgets	21
Capital Replacement Reserve Fund	25
Special Assessments	25
Default In Payment Of Assessments	25
Estoppel Certificate	26
Leasing Of Units	26
Distribution On Termination	27
Exclusive Use	27
Realty Taxes	27
Indemnification Of Officers And Managers	27
Non-profit Corporation	28
Use And Occupancy Restrictions	28
Parking Areas	31
Further Covenants	33
Use Of Recreation Areas	34
Release And Discharge Of The Developer	34
Consents And Assurances By The Corporation	34
Use Of Common Property	34
Developer Rights	35
Developer=s Exemption from Fees	35
Severability	36
Notices	36
Amendment Of By-laws	36

**NOTE:** These By-Laws have been passed by The Owners: Condominium Corporation Number: 071 2898 for the purpose of repealing, replacing and substituting the By-Laws set out in the Schedule of The Condominium Property Act being Chapter C-22 of the Revised Statutes of Alberta, 2000, and amendments thereto.

## DEFINITIONS AND INTERPRETATION

1. In these By-Laws unless the context or subject matter requires a different meaning:
  - (a) "**Act**" means THE CONDOMINIUM PROPERTY ACT, Revised Statutes of Alberta, 2000, Chapter C-22, as amended from time to time or any statute passed in substitution therefore;
  - (b) "**Amenities**" means, with respect to the Building, the improvements made to the Unit upon which the Building is located and the adjacent Common Property including sidewalks, paving, landscaping, utility lines and connections and any other such improvements intended by the Developer for the use and enjoyment of the persons occupying the Building;
  - (c) "**Architect's Certificate**" means a certificate provided by the Developer to the Corporation pursuant to By-Law 60 certifying substantial completion of any building and its Amenities and specifying the deficiencies or uncompleted work, if any, with respect thereto;
  - (d) "**Board:** means Board of Directors of the Corporation;
  - (e) "**Building**" means the Development constructed by the Developer on the Parcel;
  - (f) "**By-Laws**" means the By-Laws of the Corporation, as amended from time to time;
  - (g) "**Capital Replacement Reserve Fund**" means the fund established by the Board to be used for the repair or replacement of any real and personal property owned by the Corporation, or required to be maintained by the Corporation;
  - (h) "**City**" means the City of Calgary, a municipal corporation;
  - (i) "**Commercial Owner**" means the Developer as the original owner of the Commercial Space and its successors in title from time to time as owner or owners of the Commercial Space;
  - (j) "**Commercial Space**" means the Retail Units;
  - (k) "**Commercial Unit**" means units on the second floor of the Building developed for the purposes of commercial and/or retail space or office space;
  - (l) "**Common Expenses**" means the expense of performance of the objects and duties of the Corporation and any expenses specified as Common Expenses in these By-Laws;
  - (m) "**Common Property**" means so much of the Parcel as is not comprised in or does not form a part of any Unit shown on the Condominium Plan;
  - (n) "**Condominium Plan**" means the plan registered by the Developer under the Act with respect to the Residential Development as plan number 0712898;
  - (o) "**Corporation**" means the Corporation constituted under the Act by the registration of the Condominium Plan;
  - (p) "**Developer**" means P.O.V. Developments (Downtown) Inc., and its successors and assigns;

- (q) **“Development”** means the integrated high rise complex that is comprised of Residential Development and the Commercial Space within the Building that the Developer has constructed on the Parcel;
- (r) **“Easements and Covenants”** means those easements and covenants registered at the South Alberta Land Titles Office for the purposes of recording the rights and obligations of respective owners, licencees, invitees and guests with respect to the operation of the Building and adjoining landowners;
- (s) **“Equipment”** means the heating, ventilating, air conditioning, elevating and other equipment to be installed by the Developer in the Building and necessary for the operation thereof;
- (t) **“Interest Rate”** means the rate of interest per annum which may be or shall become payable hereunder by an Owner in respect of monies owing by him to the Corporation and shall be equal to the commercial prime rate in Edmonton of the Royal Bank of Canada plus TWO (2%) PERCENT on the earliest date on which any portion of the said monies becomes due and payable by an Owner;
- (u) **“Manager”** means the professional manager first retained by the Developer or any successor contractually appointed by the Board;
- (v) **“Owner”** means a person who is registered as the Owner of the fee simple estate in a Unit;
- (w) **“Parcel”** means the land comprised in the Condominium Plan;
- (x) **“Parkade”** means the underground parking garage within condominium plan 051 0908 as units 3 and 4 of condominium plan 051 0908 have been re-divided by condominium plan 051 0924 and intended to be used as parking for the Owners;
- (y) **“Parkade Condominium Corporation”** means that corporation constituted by the Act upon registration of the condominium plan for the Parkade;
- (z) **“Parking Unit”** means a unit within the Parkade to be used for parking purposes by an Owner;
- (aa) **“Recreational Facilities”** means the recreational facilities and other amenities included in the Building consisting of at least a fitness center (including stationary exercise equipment);
- (bb) **“Residential Development”** means that portion of the Building constructed on the Parcel, excluding only the Commercial Space;
- (cc) **“Residential Unit”** means a Unit within the Residential Development as shown on the Condominium Plan;
- (dd) **“Restrictive Covenant and Cross-Easement”** means that agreement made effective the 11th day of May, 2007 and made amongst the Developer as owner of the Commercial Space, the Developer as owner of the Residential Development, the Developer, Condominium Corporation No. 0510908 as registered owner of the Parkade, and the City;

- (ee) **“Retail Units”** means that portion of the ground floor of the Development which is comprised of the two strata titles shown on the strata plan registered in respect of the Commercial Space and legally described as Plan 071 2898, Block 63, Strata Lot 47, Excepting Thereout All Mines and Minerals; and **“Retail Unit”** means any one of the Retail Units;
- (ff) **“Special Resolution”** means:
  - (i) a resolution passed at a properly convened meeting of the Corporation, of which at least seven (7) days prior notice specifying the proposed resolution has been given, by a majority of not less than 75% of all the persons entitled to exercise the powers of voting conferred under the Act or these By-Laws and representing not less than 75% of the total Unit Factors for the Residential Units; or
  - (ii) a written resolution signed by not less than 75% of all of the persons who, at a properly convened meeting of the Corporation, would be entitled to exercise the powers of voting conferred by the Act or these By-Laws and representing not less than 75% of the total Unit Factors for the Residential Units for all the Units;
- (gg) **“Unit”** means in the case of the Residential Development, a space that is situated within the Building and described as a Unit in the Condominium Plan by reference to floors, walls and ceilings within the Building and the only portion of that floor, wall or ceiling, as the case may be, that forms part of the Unit is the finishing material that is in the interior of the Unit, including any lath and plaster, paneling, gypsum board, panels, flooring material or coverings or any other material that is attached, laid, glued or applied to the floor, wall or ceiling as the case may be, excluding exterior windows, exterior doors, and hallway doors;
- (hh) **“Unit Factor”** means the unit factor for each Unit as more particularly specified or apportioned and described in and set forth on the Condominium Plan.

Subject to the foregoing, words and expressions which have a special meaning assigned to them in the Act have the same meaning in these By-Laws and other expressions used in these By-Laws and not defined in the Act or in these By-Laws have the same meaning as may be assigned to them in THE LAND TITLES ACT of Alberta, as amended from time to time or in any statute or statutes passed in substitution therefore. Words importing the masculine gender include the feminine gender or neuter, and vice versa, and words importing persons include firms and corporations and vice versa, where the context so requires.

## HEADINGS

- 2. (a) The headings used throughout these By-Laws are inserted for reference purposes only, and shall not be considered or taken into account in construing the terms or provisions of any By-Law;
- (b) The rights and obligations given or imposed on the Corporation by the Owners under these By-Laws are in addition to any rights or obligations given or imposed on the Corporation under the Act;
- (c) If there is any conflict between the By-Laws and the Act, the Act shall prevail to the extent permitted by law.

## DUTIES OF THE OWNER

3. An Owner shall:

- (a) permit the Corporation and its agents, at all reasonable times, on notice (except in case of emergency when no notice is required), to enter his Unit for the purpose of inspecting the Unit and maintaining, repairing or renewing pipes, wires, cables, ducts, conduits, plumbing, sewers and other facilities for the furnishing of utilities for the time being existing in the Unit and capable of being used in connection with the enjoyment of any other Unit or Common Property, or for the purpose of maintaining, repairing or renewing either the Unit or the Common Property, or for the purpose of ensuring that the By-Laws are being observed;
- (b) permit the Corporation and its agents, at all reasonable times, access to the Unit and the Common Property to maintain in good order and condition any lawn trees or landscaped area and to maintain and repair the exterior or outside surfaces of the Building forming part of the Units or the Common Property including exterior windows and doors and all other outside accouterments affecting the appearance, usability, value or safety of the Parcel or the Units;
- (c) forthwith carry out all work that may be ordered by any municipality or public authority in respect of his Unit and pay all rates, taxes, charges, outgoing and assessments that may be payable in respect of his Unit;
- (d) repair and maintain this Unit, excluding all exterior windows and sliding glass doors, outer boundaries, walls and other outside surfaces and roofs and eaves troughs and all other outside hardware and accouterments affecting the appearance, usability, value or safety of the Unit, and keep it in a state of good repair, except such damage as is insured against by the Corporation; and shall maintain in reasonable manner any area which is located on or which comprises any part of the Common Property to which the Owner has been granted exclusive use pursuant to By-Law 54 and if the Owner does not maintain such area to a standard similar to that of the remaining Common Property, the Corporation may give one month's notice to the Owner to this effect and if such notice has not been complied with at the end of the month, then the Corporation may carry out such work and the provisions of By-Law 44 shall apply;
- (e) not make any repairs, additions or alterations to the exterior of his Unit or the Building (including interior and exterior load bearing and partition walls) of which his Unit forms a part or to the plumbing, mechanical or electrical systems within his Unit without first obtaining the written consent of the Corporation;
- (f) strictly comply with the architectural and landscaping guidelines of the Corporation in effect from time to time;
- (g) not place or erect on any Unit any structure without the prior approval by the Board;
- (h) use and enjoy the Common Property in such a manner as to not unreasonably interfere with the use and enjoyment thereof by other Owners, their families or visitors;
- (i) not use his Unit or permit it to be used in any manner for any purpose which may be illegal, injurious or that will cause nuisance or hazard to any occupier of another Unit (whether an Owner or not) or the family of such an occupier;

- (j) notify the Corporation forthwith upon any change of ownership or of any mortgage or other dealing in connection with his Unit;
- (k) not enter nor permit his family or visitors to enter upon the Unit of another Owner (other than the Common Property) without the permission of the Owner;
- (l) comply strictly with these By-Laws and with such rules and regulations as may be adopted pursuant thereto from time to time and cause all adult occupiers of and visitors to his Unit to similarly comply;
- (m) pay to the Corporation when due all Common Expenses levied or assessed against his Unit together with interest on any arrears thereof at the Interest Rate calculated from the due date;
- (n) maintenance of Common Property located within Commercial Units and Residential Development:
  - (i) The Owner of the Commercial Unit shall maintain and repair the Common Property located within those Units;
  - (ii) Notwithstanding the responsibility of the Owner of the Commercial Unit to maintain and repair the Common Property located within such, the Corporation shall maintain all structural components of the Common Property, including the elevator of the Common Property located within such Units;
  - (iii) The Owner of the Commercial Unit shall be responsible for the repair and maintenance of the interior of the Common Property located within such Unit(s), with the exception of structural components, and in particular, shall be responsible for the declaration, cleanliness, and care of the Common Property located within such Unit(s). If any Owner of such Unit(s) should fail to clean, maintain, and/or repair, in a manner satisfactory to the Board or its representative, those items for which the Owner is responsible, after ten (10) days written notice to do so given by the Board or its representative, then the Board or its representative may do or cause to be done the cleaning, maintenance or repair and the Owner of such Unit(s) affected is obliged to and shall reimburse the Corporation for all monies expended for labor, materials, normal overhead and profit, and all costs incurred in collection in respect of the doing of such cleaning, maintenance or repairs; and the Board or its representative may use any or all of the remedies open to it as hereinafter set out to recover such monies for the Corporation together with interest thereon at the rate herein provided for overdue assessments and such monies shall be a charge upon his Unit to the same extent as they would be if they were Common Expense charges assessed upon his Unit;
  - (iv) Notwithstanding anything to the contrary herein expressed or implied, each owner of the Commercial Unit shall be responsible for damage caused to all items in the Unit or the Common Property by any willful or negligent acts of the Owner, its employees, its invitees, contractors or licensees that are not required by these By-Laws to be insured against by the Corporation (or in fact insured against by it whether required or not); and should any Owner fail to repair in a manner satisfactory to the Board or its representative then the Board or its representative may do or cause to be done such repair; and the Owner affected agrees to and shall reimburse the Corporation for all monies expended for labor, materials, normal overhead and profit and all costs incurred in collection in respect of the doing of such repairs and the Board or its representative may use all or any of the remedies open to it as hereinafter set out to recover such



monies for the Corporation together with interest thereon as herein provided for overdue assessments and such monies shall be a charge upon his Unit to the same extent as they would be if they were Common Expense charges assessed upon his Unit;

- (v) The Owner of the Commercial Unit shall be responsible for replacement of interior fixtures and chattels caused by normal wear and tear or where such loss is caused by the willful or negligent acts of the Owner, employees, or their invitees, contractors or licensees;
- (o) comply with By-law 4 (m), below.
- (p) comply with all Easements and Covenants;
- (q) comply with all the rules, regulations and By-laws of the Parkade Condominium Corporation;

#### **DUTIES AND POWERS OF THE CORPORATION**

- 4. In addition to the duties of the Corporation set forth in the Act, the Corporation, through its Board, shall:
  - (a) control, manage, maintain, repair and administer the Common Property and all real property, chattels, personal property or other property owned by the Corporation for the benefit of all of the Owners and for the benefit of the Residential Development;
  - (b) do all things required of it by the Act, these By-Laws and other rules and regulations in force from time to time;
  - (c) maintain and repair (including renewal where reasonably necessary) pipes, wires, cables, ducts, conduits, plumbing, sewers and other facilities for the furnishing of utilities for the time being existing in the Parcel and capable of being used in connection with the enjoyment of more than one Unit or the Common Property;
  - (d) provide and maintain in force all such insurance as is required by the Act and by the provisions of these By-Laws and, on the written request of an Owner, purchaser or registered mortgagee of the Unit, produce to the Owner or mortgagee, a certified copy of the policy or policies of insurance effected by the Corporation or a certificate of memorandum thereof and the receipt for the last premium in respect thereof;
  - (e) maintain and repair the exterior or outside surface of the building comprising the Units (including exterior windows and doors and all other outside accouterments affecting the appearance, usability, value or safety of the Parcel or the Units) and the Common Property including any landscaping which is located on any part of the Common Property and all fencing and posts;
  - (f) collect and receive all contributions towards the Common Expenses and deposit same in a separate account with a chartered bank;
  - (g) pay all sums of money properly required to be paid on account of all services, supplies and assessments pertaining to or for the benefit of the Parcel, the Corporation and the Owners as the Board may seem justifiable in the management or administration of the entire project;

- (h) remove ice, snow, slush and debris from and keep and maintain in good order and condition all:
  - (i) areas of the Common Property designated for vehicular or pedestrian traffic or outside parking; and
  - (ii) all grassed or landscaped areas of the Common Property;

PROVIDED THAT the maintenance of any exclusive use area designated under By-Law 54 shall be the prime responsibility of the Owner to whom such privacy area has been assigned;

- (i) provide garbage receptacles or containers on the Common Property for use by all the Owners and provide for regular collection therefrom;
  - (j) at all times keep and maintain for the benefit of the Corporation and all Owners copies of the warranties, guarantees, drawings and specifications, plans, written agreements, certificates, approvals and permits provided to the Corporation pursuant to Section 46 of the Act;
  - (k) not plant any trees or permit substantial landscaping within any lands which are the subject of an easement or similar grant to any utility company, municipality or local authority;
  - (l) comply with all Easements and Covenants.
  - (m) The Corporation shall:
    - (i) observe, adhere to and be bound to all the covenants, restrictions and prohibitions contained in the Restrictive Covenant and Cross-Easement; and
    - (ii) not allow for any amendment, alteration or termination of the Restrictive Covenant and Cross Easement and, notwithstanding section 68, not allow for the amendment or alteration to these By-laws or the approval or authorization of any action on the part of the Corporation which in either of such circumstances would or may cause the breach of section 4 (m) (i), above.
5. In addition to the powers of the Corporation set forth in the Act, the Corporation, through its Board, may and is hereby authorized to:
- (a) purchase, hire or otherwise acquire personal property for use by Owners in connection with the maintenance, repair, replacement or enjoyment of the real and personal property of the Corporation or the Common Property; without limiting the preceding provisions, as the Corporation and the Commercial Owner share and use certain common mechanical and electrical systems and equipment that service both the Residential Development and the Commercial Space, the Corporation may enter into agreements with the Commercial Owner relating to the use and modification (collectively, "Modifications") to any of the mechanical and electrical systems and equipment that service the Retail Units provided: (i) the Modifications do not adversely affect the mechanical and electrical systems that service the Residential Development; and (ii) the Corporation shall not be required to pay any costs in connection with the Modifications requested by the Commercial Owner that are for the benefit or use of the Retail Units or the Commercial Owner;

- (b) borrow monies required by it in the performance of its duties or the exercise of its powers provided that each such borrowing in excess of 15% of the current year's Common Expenses budget has been approved by Special resolution;
- (c) secure the repayment of monies borrowed by it and interest thereon, by negotiable instrument, a mortgage of unpaid contributions (whether levied or not), or a mortgage of any property vested in it, or by any combination of those means;
- (d) invest, as it may determine, any contributions towards the Common expenses SUBJECT TO the restrictions set forth in the Act;
- (e) make an agreement with an Owner, tenant or other occupier of a Unit for the provision of amenities or services by it to the Unit or to the Owner, tenant or occupier thereof;
- (f) grant to an Owner a lease with respect to areas adjoining or relating to such Owner's Unit, as shown on the Condominium Plan, under the Act, on such terms and conditions as may be determined by the Board from time to time PROVIDED THAT such lease shall be available for the benefit only of Owners, purchasers, tenants and other lawful occupants of such Unit, shall not be assignable to anyone who is not an Owner or purchaser by Agreement for Sale of such Unit and shall be terminable on 30 days notice by the Corporation as against any grantee, lessee or assignee who ceased to be an Owner or occupier under Agreement for Sale of such Unit;
- (g) grant to an Owner the right to exclusive use and enjoyment of part of the Common Property (including storage area and extra parking space) or special privileges in respect thereof. This grant shall not be assignable to anyone who is not an Owner or purchaser by agreement for sale of such Unit, may be terminated on reasonable notice, unless the Corporation by Special Resolution otherwise resolves;
- (h) make such rules and regulations as it may deem necessary or desirable from time to time in relation to the use, enjoyment and safety of the Common Property and do all things reasonably necessary for the enforcement of the By-Laws and for the control, management and administration of the Common Property generally including the commencement of an action under the Act and all subsequent proceedings relating thereto;
- (i) provide and maintain out of the assessments to be levied by the Corporation towards the Common Expenses, or otherwise, such amount as the Board may determine from time to time to be fair and prudent for replacement and contingency reserve funds. Reserve funds shall be assets of the Corporation;
- (j) determine from time to time the amounts to be raised and collected for the purpose hereinbefore mentioned including, without limitation, the Capital Replacement Reserve Fund;
- (k) raise amounts so determined by levying assessments on the Owners in proportion to the Unit Factors for their respective Units or as otherwise herein provided;
- (l) charge interest on any contribution or Common Expenses owing to it by an Owner at the Interest Rate.

## THE BOARD

6. The Powers and duties of the Corporation shall, subject to any restriction imposed or direction given at a general meeting or these By-Laws, be exercised and performed by the Board.
7. (i) Ownership of a Unit is not necessary for election to and membership on the Board. Any person who has attained the age of majority shall be eligible for nomination and election to the Board. Where a Unit has more than one Owner, only one Owner in respect of that Unit may sit on the Board at any point in time.  
  
(ii) Where there are no Mortgagees and not more than three (3) Owners, the Board shall consist of all Owners or such person or persons in such number as the Owners of all Units may designate.

## REPRESENTATIVE OF COMPANY ON BOARD

8. (a) A company which is an Owner may by proxy, power of attorney or resolution of its directors, appoint such person or persons as it thinks fit to act as its representative, shall be entitled to so act provided notice in writing thereof shall have been given to the Board. Where a representative or representatives of a company is (are) the only member(s) of the Board a minute or resolution signed by the representative(s) or by the alternate(s) of its representative(s) duly appointed pursuant to the paragraph next following shall be deemed to be a resolution of the Board;  
  
(b) A representative of a company on the Board may appoint any person whether another Owner or not and whether a member of the Board or not to serve as his alternate representative on the Board and as such, to attend and vote in his stead at meetings of the Board and to do anything specifically provided for in these By-Laws. Such alternate shall, if present, be included in the count for quorum and if he be a member of the Board he shall be entitled to two votes, one as a member of the Board and the other as an alternate representative. Notice of meetings of the Board shall be sent to the alternate representative of a member of the Board if and when an appointed representative vacates the office of a representative of a member of the Board or removes the alternate representative from office as alternate representative, and any appointment or removal under this By-Law shall be made in writing under the hand of the representative making the same.
9. (a) The Board shall consist of not less than 5 and not more than 9 members;  
  
(b) No more than two (2) registered Mortgagees or representatives of them may be members of the Board at any one time.
10. At each annual general meeting of the Corporation all the members of the Board shall retire from office and the Owners shall elect a new Board. Prior to the Final Turnover Date, the Owners shall vote their shares in such a manner as will elect to at least fifty percent (50%) of the positions on the Board, nominees of the Developer unless the Developer fails or otherwise elects not to nominate any or sufficient persons for such positions.
11. A retiring member of the Board shall be eligible for re-election.

12. The Corporation may, by resolution at an extraordinary general meeting, remove any member of the Board before the expiration of his term of office and appoint another Owner in his place, to hold office until the next annual meeting.
13. Where a vacancy occurs on the Board under By-Law 21, the remaining members of the Board may appoint a person to fill that office for the remainder of the former member's term provided such person qualifies for membership pursuant to By-Law 7.
14. Except where there is only one Owner and except during the period before the first annual general meeting, a quorum is the majority of the membership of the Board.
15. At the first meeting of the Board and at each meeting held after an annual general meeting of the Corporation, the Board shall elect from among its members a President and a Secretary who shall hold their respective offices until the conclusion of the next annual general meeting of the Corporation or until their successors are elected or appointed. The President shall be the Chairman of the Board and shall have a casting vote in addition to his original vote. A person ceases to be an officer of the Corporation if he ceases to be a member of the Board. Where a person ceases to be an officer of the Corporation, the Board shall designate from its members a person to fill that office for the remainder of the term.
16. The duties of the officers of the Board shall be as determined by the Board from time to time.
17. At meetings of the Board all matters shall be determined by simple majority vote. A resolution of the Board in writing signed by all of the members shall have the same effect as a resolution passed at a meeting of the Board duly convened and held.
18. The Board may:
  - (a) meet together for the conduct of business, adjourn and otherwise regulate its meeting as it thinks fit, and it shall meet when any member of the Board gives to the other members of the said Board not less than three (3) days' notice of a meeting proposed by him, specifying the reason for calling the meeting, provided that the Board shall meet at the call of the President on such notice as he may specify without the necessity of the President giving reasons for the calling of the meeting;
  - (b) appoint or employ for, and on behalf of the Corporation such agents or servants as it thinks fit in connection with the control, management and administration of the Common Property and the exercise and performance of the powers and duties of the Corporation;
  - (c) subject to any restriction imposed or direction given, at a general meeting of Owners, delegate to one or more members of the Board such of its powers and duties as it thinks fit, and at any time revoke such delegation;
  - (d) obtain and retain by contract the services of a manager for management of the Units and Common Property or of any professional real property management firm or professional real property manager or agent for such purpose (including but not so as to limit the generality of the foregoing the supervision, management and performance of any or all of the duties of the Corporation) and upon such terms as the Board may from time to time decide SUBJECT ALWAYS to the control and direction of the Corporation and the Board, such Manager to be reasonably fit and suited to perform such duties. The Manger employed by the Board need not

devote its full time to the performance of duties of the Corporation so long as those duties are performed in good and sufficient fashion. Any such contract shall provide for the contract Manager to maintain a fidelity bond for the benefit of the naming the Corporation and such bond shall be in an amount at least equal to one-half (2) of the approved budget of the Corporation in any given fiscal year and the total amount of any replacement and contingency reserve funds. At all times when the Board consists only of nominees of the Developer no such contract shall provide for an initial term in excess of two (2) years and the termination provisions of the Act shall apply thereto.

19. The Board shall:
  - (a) keep minutes of its proceedings and, upon written request, provide copies thereof to first mortgagees;
  - (b) cause minutes to be kept of general meetings of the Owners and upon written request, provide copies thereof to first mortgagees;
  - (c) cause proper books of account to be kept in respect of all sums of money received and expended by it and the matters in respect of which receipt and expenditure take place;
  - (d) prepare proper accounts relating to all monies of the Corporation, and the income and expenditure thereof, for each annual general meeting;
  - (e) maintain financial records of all assets, liabilities and equity of the Corporation;
  - (f) on written application of an Owner or mortgagee, or any person authorized in writing by him, make the books of account available for inspection at all reasonable times;
  - (g) cause to be prepared and distributed to each Owner and to each mortgagee who has notified its interest to the Corporation a financial statement of the receipts of contributions of all Owners towards the Common Expenses and disbursements made by the Corporation within ninety (90) days of the end of the fiscal year of the Corporation;
  - (h) within fifteen (15) days of a person becoming or ceasing to be a member of the Board, file or cause to be filed at the Land Titles Office a notice in the prescribed form stating the name and address of that person and the day that the person became or ceased to be, as the case may be, a member of the Board;
  - (i) file or cause to be filed at the Land Titles Office a notice in the prescribed form of any change in the address for service of the Corporation.
20. All acts done in good faith by the Board are, notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any member of the Board, as valid as if the member had been duly appointed or had duly continued in office.
21. The office of a member of the Board shall be vacated if the member:
  - (a) by notice in writing to the Corporation resigns his office; or

- (b) is more than sixty (60) days in arrears in payment of any contribution, levy or assessment required to be made by him as an Owner or becomes bankrupt; or
- (c) is found lunatic or becomes of unsound mind, or is the subject of a Certificate of Incapacity issued under THE MENTAL HEALTH ACT, RSA 2000, Chapter M-13; or
- (d) is convicted of an indictable offense for which he is liable to imprisonment for a term of not less than two (2) years; or
- (e) is absent from meetings of the Board for a continuous period of four (4) months or four (4) consecutive meetings without the consent of the remaining members of the Board and a majority of the remaining members of the Board resolve at two (2) meetings of the Board held at least seven (7) days apart that his office be vacated; or
- (f) he ceases to qualify for membership pursuant to By-Law 7 or 8; or
- (g) in the case of a company which by its representative is a member of the Board if the company shall become bankrupt or make an assignment for the benefit of creditors or if proceedings are commenced to wind up the company, otherwise than for the purpose of amalgamation or restructuring.

#### **SIGNING AUTHORITIES**

22. The Board shall determine, by resolution from time to time, the manner and which officer or officers shall sign cheques, drafts, notes and other instruments and documents, including banking forms and authorities not required to be under corporate seal.

#### **CORPORATE SEAL**

23. The Corporation shall have a common seal, which shall be adopted by resolution and which shall at no time be used or affixed to any instrument except in the presence of at least one member of the Board or by the persons as may be authorized from time to time by resolution of the Board, except that where there is only one member of the Corporation his signature shall be sufficient for the purposes of this By-Law, and if the only member is a company the signature of its appointed representative on the Board shall be sufficient for the purpose of this By-Law.

#### **GENERAL MEETINGS**

24. The First annual general meeting of the Owner(s) of the Residential Units shall be convened by the Board within:
- (a) ninety (90) days from the date that FIFTY (50%) PERCENT of the Units are sold by the Developer, or
  - (b) one hundred and eighty (180) days from the date that the first Unit is sold by the Developer,
- whichever is sooner. Subsequent annual general meetings shall be held once in each calendar year, and not more than fifteen (15) months shall elapse between the date of one annual general meeting and that of the next.

25. All general meetings other than annual general meetings shall be called extraordinary general meetings.
26. The Board may, whenever it thinks fit, and shall, upon a requisition in writing by Owners representing not less than FIFTEEN (15%) PERCENT of the total Unit Factors for all the Units or upon the request in writing from mortgagees holding registered mortgages (and who have notified their interests to the Corporation) against Units in respect of which corresponding Unit Factors represent not less than FIFTEEN (15%) PERCENT of the total Unit Factors or a combination of such Owners or mortgagees entitled to vote with respect to FIFTEEN (15%) PERCENT of the total Units Factors, convene an extraordinary general meeting.

#### **NOTICE OF GENERAL MEETING**

27. Seven (7) days' notice of every general meeting specifying the place, the date and the hour of meeting, and in the case of special business the general nature of such business shall be given to all Owners and first mortgagees or Residential Units, only, who have notified their interests to the Corporation. Notice shall be given to the Owners and to such mortgagees in the manner prescribed in these By-Laws, but the accidental omission to give notice to an Owner or mortgagee or non-receipt by an Owner or mortgagee does not invalidate the meeting or any proceedings thereat. In computing the number of days notice of a general meeting required under these By-Laws, the day on which the notice is deemed to have been received and the day of the meeting shall be counted.

#### **PROCEEDINGS AT GENERAL MEETINGS**

28. All business that is transacted at an annual general meeting, with the exception of the consideration of accounts and election of members to the Board, or at any extraordinary general meeting shall be deemed special.
29. Save as in these By-Laws otherwise provided, no business shall be transacted at any general meeting unless a quorum of persons entitled to vote is present at the time when the meeting commences. A quorum for a general meeting consists of not less than one-quarter of the persons entitled to vote being present in person or by proxy at that meeting.
30. If within one-half hour from the time appointed for a general meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within one-half hour from the time appointed for the meeting, the persons entitled to vote who are present or represented by proxy shall be a quorum.
31. The President of the Board or his nominee shall be the Chairman of all general meetings.
32. The Order of Business at general meetings, and as far as is appropriate at all extraordinary general meetings, shall be:
  - (a) the election of the Chairman of the meeting;
  - (b) calling of the roll and certifying the proxies;
  - (c) proof of notice of meeting or waiver of notice;



- (d) reading and approval of any unapproved minutes;
- (e) reports of officers;
- (f) reports of committees;
- (g) financial report;
- (h) appointment of auditors;
- (i) election of the Board;
- (j) unfinished business;
- (k) new business;
- (l) adjournment.

#### **VOTES OF OWNERS**

- 33. At any general meeting a resolution by the vote of the meeting shall be decided by a show of hands, unless a poll is demanded by any Owner or registered mortgagee present in person or by proxy. Unless a poll be so demanded, a declaration by the Chairman that a resolution has, on the show of hands, been carried is conclusive evidence of the fact without proof of the number or proportion of votes recorded in favor or against the resolution. Except for matters requiring a Special Resolution, all matters shall be determined by majority vote.
- 34. A poll, if demanded, shall be taken in whatever manner the Chairman thinks fit, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. In the case of equality in the votes, whether on a show of hands or on a poll, the Chairman of the meeting is entitled to a casting vote in addition to his original vote. A demand for a poll may be withdrawn.
- 35. On a show of hands, each person entitled to vote for any Unit shall have one vote for that Unit. On a poll, the votes of persons entitled to vote shall correspond with the Unit Factors for the respective Units owned or mortgaged to them.
- 36. On a show of hands or on a poll, votes may be given either personally or by proxy.
- 37. An instrument appointing a proxy shall be in writing under the hand of the appointee or his attorney, and may be issued for a specific meeting, or as a general proxy. A proxy may be made by anyone with voting rights to the Corporation.
- 38. Except in cases whereby or under the Act a Special Resolution is required, no Owner is entitled to vote at any general meeting unless all assessments payable in respect of his Unit have been duly paid to the date thirty (30) days prior to the date of such meeting but the presence of any such defaulting Owner shall be included in the count for quorum constitution purposes pursuant to By-Law 29.
- 39. Co-Owners may vote by proxy but only if the proxy is jointly appointed by them or by one of the co-Owners appointed by the other or all others, as the case may be, and in the absence of such proxy, co-

Owners are not entitled to vote separately on a show of hands except when a Unanimous Resolution is required by the Act, but any one co-Owner may demand that a poll be taken.

40. On any poll, each co-Owner is entitled to such part of the vote applicable to a Unit as is proportionate to his interest in the Unit. The joint proxy (if any) on a poll shall have a vote proportionate to the interest in the Unit of the joint Owners as to not vote personally or by individual proxy.
41. Where Owners are entitled to successive interests in a Unit, the Owner entitled to the first interest (or if his interest is mortgaged by registered first mortgage notified to the Corporation, the mortgagee under such mortgage) is alone entitled to vote, whether on a show of hands or a poll.
42. Where an Owner is a trustee, he shall exercise the voting rights in respect of the Unit to the exclusion of person beneficially interested in the trust, and those persons shall not vote.
43. Notwithstanding the provisions of these By-Laws with respect to appointment of a proxy, where the Owner's interest is subject to a registered mortgage and where the mortgage or these By-Laws or any statute provides that the power of the vote conferred on the mortgagee shall be exercised by the mortgagee and who has given written notice of his mortgage to the Corporation, no instrument or proxy shall be necessary for a power to vote and the mortgagee's power to vote shall not be limited or proscribed by the Owner's failure to pay assessments.

#### **VIOLATION OF BY-LAWS**

44. (a) Any infraction of violation of, or default under, these By-Laws or any rules and regulations established pursuant to these By-Laws on the part of an Owner, his servants, agents, licensees, invitees or tenants may be corrected, remedied or cured by the Corporation and any costs or expenses incurred or expended by the Corporation in correcting, remedying or curing such infraction, violation or default shall be charged to such Owner and shall be added to and become part of the assessments of such Owner for the month next following the date when such costs or expenses are expended or incurred (but not necessarily paid) by the Corporation and shall become due and payable on the date of payment of such monthly assessment and shall bear interest at the Interest Rate until paid;
- (b) The Corporation may recover from an Owner by an action for debt in any court of competent jurisdiction any sum of money which the Corporation is required to expend as a result of any act or omission by the Owner, his servants, agents, licensees, invitees or tenants, which violates these By-Laws or any rules or regulations established pursuant to these By-Laws and there shall be added to any judgment, all costs of such action including costs as between solicitor and client. Nothing herein shall be deemed to limit any right of any Owner to bring an action or proceeding for the enforcement and protection of his rights and the exercise of his remedies;
- (c) In addition, the Corporation may exercise the powers provided for in section 42 of the Act.

#### **DAMAGE OR DESTRUCTION**

45. (a) In the event of damage or destruction to a Unit or Units as a result of fire or other casualty, the Board shall determine within thirty (30) days of the occurrence whether there has been substantial damage. For the purposes of this paragraph, substantial damage shall mean damage to the extent of 25% or more of the replacement value of all Units immediately prior to the occurrence. Prior to making any determination under this sub-paragraph the Board shall obtain

the opinion of an independent insurance appraiser to the effect that substantial damage has or has not occurred. If there has been substantial damage, the Board shall convene an extraordinary general meeting and give at least ten (10) days' notice by registered mail to all registered first mortgagees;

- (b) Unless there has been substantial damage and the Owners by Special Resolution resolve not to proceed with repair or restoration within one hundred (100) days after the damage or destruction, the Board shall arrange for prompt repair and restoration using proceeds of insurance for that purpose. The Board shall cause the proceeds of all insurance policies to be disbursed to the contractors engaged in such repair and restoration in appropriate progress payments. Any costs of such repairs and restoration in excess of the insurance proceeds shall constitute a common expense and the Board may assess all the Owners for such deficiency as part of the Common Expenses;
- (c) Where there has been substantial damage and the Owners resolve by Special Resolution within one hundred (100) days after the damage or destruction not to repair, the Board shall on behalf of the Owners make application to terminate the condominium status of the Parcel in accordance with the provisions of the Act, and each of the Owners shall be deemed to consent to such application. Upon termination of the condominium status:
  - (i) any liens or charges affecting any of the Units shall be deemed to be transferred in accordance with their existing priorities to the interests of the respective Owners of the Parcel; and
  - (ii) the proceeds of insurance shall be paid to the Owners and mortgagees as their respective interests may appear in proportion to their respective interests in the Parcel;
- (d) No Owner shall be entitled to claim any compensation from the Corporation for any loss or damage to the property or person of the Owner arising from any defect or want of repair of the Common Property or any part thereof, unless such loss or damage is covered by the Corporation pursuant to the Act or these By-Laws, whichever carries the greater coverage;
- (e) Where the Corporation is required to enter a Unit for the purpose of maintaining, repairing or renewing pipes, wires, cables, and ducts for the time being existing in the Unit and capable of being used in connection with the enjoyment of any other Unit or the Common Property, the Corporation and its servants, employees and agents shall in carrying out any work or repairs do so in a proper and workmanlike manner and shall make good any damage to the Unit occasioned by such work and restore the Unit to its former condition, leaving the Unit clean and free from debris;
- (f) An Owner shall indemnify and save harmless the Corporation from the expenses of any maintenance, repair or replacement rendered necessary to the Common Property or any Unit by his act or omission or by that of any member of his family or his or their guests, servants, agents, invitees, licensees or tenants, but only to the extent that such expense is not met by the proceeds of insurance carried by the Corporation;
- (g) The Corporation shall co-operate with the Commercial Owner to ensure the prompt repair and restoration of any damage and the carrying out of any work or repairs in a proper and workmanlike manner and to ensure that insurance proceeds are used for that purpose.

**INSURANCE**

46. (a) The Board, on behalf of the Corporation shall obtain and maintain subject always to the Act, and in particular the requirements of Section 47 thereof and Section 46 (k), following, at all times, to the extent obtainable, the following insurance:
- (i) Fire insurance with extended coverage endorsement insuring all the insurable Common Property and all insurable property both real and personal of any nature whatsoever of the Corporation and all of the Units including all improvements and betterments made to the Units by the Owners of which it has knowledge and the bathroom and kitchen fixtures installed by the Developer therein (but not including furnishing or other personal property of the Unit Owners) for the full replacement cost thereof, without deduction for depreciation, and covering the interests of and naming as insured all Owners from time to time and also naming as insured their mortgagees (if such mortgagees have given written notice of their interest to the Corporation) and the Corporation, as their respective interests may appear;
  - (ii) Boiler insurance if any boilers or pressure vessels exist;
  - (iii) Such other insurance and coverage for such other risks or causes as the Board may determine or as may be determined by Special Resolution;
- (b) All policies shall provide that they may not be canceled or substantially modified without at least thirty (30) days prior written notice to all the insureds, including all mortgagees of Units who have given prior written notice to the Corporation of their interests. Prior to obtaining any policy of fire insurance or any renewal thereof and at least annually, unless waived at a general meeting of the Board, the Board shall obtain an appraisal from a qualified appraiser setting out the full replacement value of the Buildings including all of the Units and the Common Property and all property of the Corporation and the Board shall forthwith deliver a copy of each appraisal to each mortgagee who has given written notice to the Corporation of its interest. The Board shall maintain the insurance at the level required by these By-Laws and suggested by the said appraisal;
- (c) Exclusive authority to adjust losses and settle proceeds under policies hereinafter in force in the project shall be vested in the Board or its authorized representative or the insurance trustee, in the event such has been appointed;
- (d) In no event shall the insurance coverage obtained and maintained by the Board be brought into contribution with insurance purchased by Owners or their mortgagees and the Board's insurance shall be deemed to be primary insurance;
- (e) The Board shall also obtain and maintain public liability insurance insuring the Board and the Owners against any liability to the public or to the Owners and their invitees, licensees or tenants, incidental to the ownership or use of the project. Limits of liability under such insurance shall be not less than \$5,000,000.00 inclusive for bodily injury or property damage per occurrence;
- (f) The limits and coverage shall be reviewed at least annually by the Board and increased in its discretion. The policy or policies shall provide a cross liability endorsement wherein the rights of a named insured under the policy or policies shall not be prejudiced as respects its, his, her or their action against another named insured;

- (g) Each insurance policy must insure the interest of the Corporation and the Owners, with standard mortgagee endorsements attached and shall also provide for:
  - (i) a waiver by the insurer of its subrogation rights against the Corporation, its manager, agents, employees and servants and the Owners and any member of the household or guests of any Owner or occupant of a Unit except for arson or fraud;
  - (ii) a waiver of the insurer of any defense based on co-insurance (provided that policies of physical damage may contain co-insurance on a stated amount basis as long as the appraisal requirements of this By-Law are met) or of invalidity arising from the conduct of or any omission or act or breach of a statutory condition by any insured;
  - (iii) a waiver of the insurer's option to repair, rebuild or replace in the event that after damage the condominium status is terminated;
- (h) A certificate or memorandum of all insurance policies and endorsements thereto shall be issued as soon as possible to each Owner upon written request having been made therefore, and to a registered mortgagee who has given written notice of his mortgage to the Corporation. A renewal certificate or memorandum of new insurance policies shall be issued to each registered mortgagee who has given written notice of his mortgage to the Corporation not later than ten (10) days before the expiration of any current insurance policy. The master policy for any insurance coverage shall be kept by the Corporation;
- (i) Notwithstanding the foregoing, the Owner may, and upon the written request of any mortgagee shall, carry insurance on their own Units as permitted by the Act provided that the liability of the insurers issuing insurance obtained by the Board shall not be affected or diminished by reason of insurance carried by an Owner. PROVIDED THAT in the event any use of any Unit shall lead to an increase in the fire or other insurance premiums otherwise payable on the insurance obtained by the Board, the party causing such increase shall be liable for payment of the same to the Corporation or individual Owner, as the case may be and such increase may be collected by the Corporation by adding the same to the Common Expenses allocated to such Owner;
- (j) Notwithstanding anything elsewhere contained herein, the proceeds of any insurance obtained by the Developer with respect to damage to or destruction of any Building or its Amenities or Equipment prior to the Turnover Date with respect to such Building shall be paid to the Developer or, if such payment is not permitted by law, applied to reconstruction or repair of such Building or its Amenities or Equipment as the case may be.
- (k) Notwithstanding anything contained in this section 46, and not in substitution or replacement thereof or anything contained in these Bylaws:
  - (i) The Corporation shall take out and keep in force, upon such terms and conditions and in such amounts and deductibles as would be maintained by a prudent owner of a property similar to the Residential Development, the following insurance.
    - (A) all risks property insurance with respect to the Residential Development, including property of every kind owned by Corporation, or for which the Corporation is legally liable, or installed by or on behalf of the Corporation in the Residential Development, with limits for each accident in an amount of not less than the full

replacement cost thereof without any deduction for depreciation and without co-insurance provisions. Such coverage shall insure against fire and all other perils as are from time to time included in the standard "all risks" coverage including, without limitation, sprinkler leakages (where applicable) and earthquake, flood and collapse, where available and carried by prudent owners, and shall be subject to a replacement cost valuation;

(B) broad form comprehensive boiler and machinery insurance on a blanket repair and replacement basis with limits for each accident in an amount not less than the full replacement cost of the Residential Development and to include all boilers, pressure vessels, air-conditioning equipment and miscellaneous electrical apparatus owned and operated by the Corporation or others, on behalf of the Corporation in or serving the Residential Development, on a replacement cost basis and without co-insurance provisions to apply or allowance for depreciation;

(C) commercial general liability insurance on an occurrence basis for third party liability including property damage, bodily injury (including personal injury), blanket contractual liability, host liquor liability, non-owned automobile liability, and products and completed operations with respect to the Residential Development and the Corporation's use of the Residential Development; coverage to include the activities conducted by the Corporation and any of its servants, agents, contractors, subcontractors and persons for whom the Corporation is in law responsible, in any part of the Residential Development; such policies shall have inclusive limits of at least Five Million Dollars (\$5,000,000) for each occurrence or such higher limits as shall be agreed upon;

(D) such other forms of insurance (save and except mortgage insurance) as the Corporation and any mortgagee may from time to time consider advisable, acting reasonably and to the extent required of prudent owners of property similar to the Residential Development;

(ii) Each of such insurance policy shall:

(A) with respect to the all risk property policy, boiler and machinery policy and loss of rental income insurance policy, contain an endorsement whereby the right of subrogation against the Commercial Owner, its servants, agents, employees and those for whom the Commercial Owner is responsible in law, including the tenants of the Commercial Space (the "Commercial Tenants") and those for whom the Commercial Tenants are responsible in law, (excluding such parties' independent contractors), is waived, if such waiver is available;

(B) with respect to the commercial general liability insurance, such policy shall contain an endorsement whereby the Commercial Owner and the Commercial Tenants, its servants, agents and employees are included as additional insureds on a non-reporting basis, a cross-liability and severability of interest clause. The Corporation's insurance policy shall be primary and respond firstly to any claim, loss or damage, (unless in respect of claims, losses or damages caused by the negligent acts, omissions or wilful misconduct of the Commercial Owner, its servants, agents, employees, contractors, and the Commercial Tenants or those persons for whom each is responsible in law);

(C) a waiver of breach of conditions clause in respect of the interests of the Commercial Owner; and

(D) an undertaking by the insurers that no change that reduces or restricts coverage or amends the cost of the insurance, cancellation or termination of any policy will be made unless the insured has received not less than 30 days prior written Notice.

- (iii) The Corporation agrees to provide the Commercial Owner with such information as it may reasonably require prior to its obtaining policies with respect to the Residential Development to enable each other to determine that such coverage is adequate in terms of, but without limitation, the security provided, limits of coverage, deductibles and cost of the premiums. If either party fails to respond to the other within two (2) weeks of receiving all such information as each of them may reasonably require, the other shall be deemed to have approved of such coverage for the applicable policy period to which the approval relates. Each shall advise the other of any comments relating to such policies in order that mutually acceptable amendments, if required, may be made.
- (iv) The Corporation does hereby absolutely release and discharge the Commercial Owner, its servants, agents, employees and those for whom the Commercial Owner is responsible in law (excluding the Commercial Owner's independent contractors), the owners of the Retail Units and the Commercial Tenants and those for whom such parties are responsible in law, with respect to all costs, losses, damages and expenses suffered or incurred by the Corporation and any Owners arising out of or in any way related to, in whole or in part, any matter in respect of which the Corporation is insured or is required to insure under these Bylaws.
- (v) **Benefit to Other Parties**

Every exemption from liability, indemnity, waiver or release from liability of any nature whatsoever contained in these Bylaws which is expressed as being applicable to the Corporation and any Owner or the Commercial Owner and the owners of the Retail Units, and whether or not expressed as being applicable to or for the benefit of or entitlement of those for whom the Corporation and any Owners or the Commercial Owner and the owners of the Retail Units are responsible in law, including the Corporation's employees and Commercial Owner's employees and their respective directors, officers, servants, and agents, shall be deemed to extend to, grant rights or causes of action in favour of, and protect, indemnify and hold harmless as the case may be, any person for whom either the Corporation and the Owners or the Commercial Owner and the owners of the Retail Units and the Commercial Tenants, as the case may be, is in law responsible, including its employees, and for the purposes of these Bylaws, the Corporation or Commercial Owner, as the case may be, shall be deemed to be acting as agent or trustee on behalf of and for the benefit of each Owner and the owners of the Retail Units and Commercial Tenants and any and all persons for whom it or they are now or may hereafter in law (excluding their respective independent contractors) be responsible, including its employees.

- (vi) The Corporation shall obtain all necessary insurance coverages from the same insurer as the Commercial Owner

#### **ASSESSMENTS FOR COMMON EXPENSES AND BUDGETS**

- 47. (a) The Common Expenses of the Corporation, shall, without limiting the generality hereof, include the following:

- (i) all levies or charges on account of garbage removal, electricity, water, gas and fuel services supplied to the Corporation for the project and for the benefit of all Owners and not charged directly to any one Owner either by meter or otherwise;
  - (ii) management fees if any, salaries, taxes and other expenses payable to or on account of employees of the Corporation;
  - (iii) all the charges on account of cleaning and sweeping of the parking areas, lawn maintenance and landscaping and for ice, snow and debris removal from Common Property not designated as a privacy area under By-Law 54;
  - (iv) all charges on account of lighting fixtures situated on Common Property;
  - (v) all charges on account of maintenance for those portions of a Unit for which the Corporation is responsible under these By-Laws;
  - (vi) all charges on account of maintenance of Common Property for which the Corporation is responsible under these By-Laws;
  - (vii) all costs of furnishings and Equipment for use in and about the recreational facilities or Amenities including the repair maintenance or replacement thereof;
  - (viii) all insurance costs in respect of the insurance for which the Corporation is responsible under these By-Laws and/or the Act;
  - (ix) all costs of and charges for all manner of professional consultation and servicing assistance required by the Corporation including, without limiting the generality of the foregoing, all legal and accounting fees and disbursements;
  - (x) all reserves for repairs and replacement of Common Property and portions of Units or Buildings, the repair or replacement of which is the responsibility of the Corporation;
  - (xi) maintenance of the exterior walls and other structural parts of the Buildings;
  - (xii) the cost of maintaining fidelity bonds as provided in these By-Laws;
  - (xiii) any realty tax or other municipal or government levy or assessment against the Common Property or any improvement thereon or thereto or with respect to any Building;
  - (xiv) assessments against the Corporation as owner of the Common Property;
  - (xv) the Owner(s) of the Units will not be required to contribute to the Common Expenses or utilities allocated to the Retail Units, and the owner(s) of the Retail Units will not be required to contribute to the Common Expenses or utilities allocated to the Units or the Common Property relating thereto except as arising pursuant to the Restrictive Covenant and Cross Easement..
- (b) At least fifteen (15) days prior to the end of each fiscal year the Corporation shall deliver or mail to each Owner at the municipal address of his Unit:



- (i) a copy of the budget for the ensuing fiscal year; and
  - (ii) a notice of the assessment for his contribution towards the Common Expenses for said ensuing fiscal year. Said assessment shall be made to the Owners in proportion to their Unit Factors;
- (c) The budget shall set out by categories an estimate of the Common Expenses of the Corporation for the next fiscal year. The budget shall include a reasonable provision for contingencies and replacements ("Contingency Reserve Fund");
- (d) The Contingency Reserve Fund may be used for the repair or replacement of any real and personal property owned by the Corporation and the Common Property but is not intended to be used to cover annually recurring maintenance and repair costs which are to be set out and provided for in the annual budget. The Corporation may by resolution determine the maximum amount that may be paid from the Contingency Reserve Fund in respect of single expenditure;
- (e) The Common Expenses set forth in each assessment shall be payable to the Corporation, or to any other persons, firm or corporation to whom the Corporation shall direct payment to be made from time to time, in twelve (12) equal, consecutive, monthly instalments payable, in advance, on the first day of each month, the first installment to be made on the 1st day of the month immediately following receipt of such notice or assessment;
- (f) All payments of whatsoever nature required to be made by each Owner and not paid within ten (10) days of the due date for payment shall bear interest at the Interest Rate from the due date until paid. All payments on account shall first be applied to interest and then to the assessment payment first due;
- (g) The Corporation shall, on the application of an Owner or any person authorized in writing by him, certify within twenty (20) days:
- (i) the amount of any contribution determined as the contribution of the Owner;
  - (ii) the manner in which the contribution is payable;
  - (iii) the extent to which the contribution has been paid by the Owner; and
  - (iv) the interest owing, if any, on any unpaid balance of a contribution;
- and, in favor of any person dealing with that Owner, the certificate is conclusive proof of the matters certified therein;
- (h) Upon the written request of an Owner, purchaser or mortgagee of a Unit the Corporation shall, within twenty (20) days of receiving that request, provide to the person making the request one or more of the following as requested by that person:
- (i) a statement setting forth the amount of any contributions due and payable in respect of a Unit;
  - (ii) the particulars of:

- (1) any action commenced against the Corporation and served upon the Corporation;
  - (2) any unsatisfied judgment or order for which the Corporation is liable; and
  - (3) any written demand made upon the Corporation for an amount in excess of \$5,000.00 that, if not met, may result in an action being brought against the Corporation;
- (iii) the particulars of, or a copy of, any subsisting management agreement;
  - (iv) the particulars of, or a copy of, any subsisting recreational agreement;
  - (v) a copy of the current budget of the Corporation;
  - (vi) a copy of the most recent financial statement of the Corporation;
  - (vii) a copy of the By-Laws of the Corporation;
  - (viii) a copy of any minutes of proceedings of a general meeting of the Corporation or of the Board;
- (i) The omission by the Board to fix the assessments hereunder for the next ensuing fiscal year or other period provided for herein, shall not be deemed a waiver or modification in any respect of the provisions of these By-Laws or release of the Owner or Owners from their obligation to pay the assessments or special contributions. Any assessments from time to time shall continue until new assessments are fixed. No Owner can exempt himself from liability from his contributions toward the Common Expenses by waiver of the use or enjoyment of the Common Property, or by vacating or abandoning his Unit;
  - (j) The Board or the Manager supplying any documents required to be provided in these By-Laws or under Section 44 of the Act, shall be entitled to charge a reasonable fee for the production thereof;
  - (k) The Corporation shall reimburse the Developer for any Common Expenses incurred and paid by the Developer and the Developer shall be entitled to set-off from any assessments against the Developer as Owner of any of the Units any amount payable by the Corporation to the Owner with respect to Common Expenses;
  - (l) No assessment shall be made against the Corporation as owner of any of the Common Property;
  - (m) Subject to By-Law 64, each years estimated Common Expenses shall be apportioned, levied and assessed to and upon the Owners in proportion to the Unit Factors as shown on the Condominium Plan, subject to any adjustments required between the Owner(s) of the Residential Unit(s) and the owner(s) of the Retail Units in regard to utility expenses to be paid for by Owner(s) of the Retail Units and by By-Law 47(a)(xv);

**(n) CAPITAL REPLACEMENT RESERVE FUND**

- (i) In addition to the requirements of Sections 47 (a) to 47 (m) of these By-Laws, the Corporation, subject to the Regulations and section 38 of the Act, shall establish and maintain a Capital Replacement Reserve Fund to provide sufficient funds that can reasonably be expected to provide for major repairs and replacements of property owned by the Corporation and Common Property;
- (ii) Such funds shall not be applied to capital improvements without a Special Resolution;
- (iii) In order to determine the amount of such fund the Corporation shall, pursuant to Part 2 of the Regulations passed pursuant to the Act, conduct such studies as are required to create such a fund and its requirements, and shall establish a plan to fund and implement this Reserve Fund required by the studies;
- (iv) These funds shall not be co-mingled with the regular administrative funds by the Corporation;
- (v) These funds shall be used solely for the Residential Units and related property.

**SPECIAL ASSESSMENTS**

48. If at any time it appears that the annual assessment or contribution towards the Common Expenses will be insufficient to meet the Common Expenses, the Corporation may assess and collect a special contribution or contributions against each Unit in an amount sufficient to cover the additional anticipated Common Expenses. The Corporation shall give notice of such further assessment to all Owners which shall include a written statement setting out the reasons for the assessment and each assessment shall be due and payable by each Owner in the manner and on the date or dates specified in the notice. Each such special contribution shall be determined and assessed against the Owners in proportion to their Unit Factor. All such special contributions shall be payable within ten (10) days of the due date for payment as specified in the notice and if not paid shall bear interest at the Interest Rate from the due date until paid.

**DEFAULT IN PAYMENT OF ASSESSMENTS**

49. (a) The Corporation shall and does hereby have a lien on and charge against the estate or interest of any Owner for any unpaid contribution, assessment, instalment or payment due to the Corporation, which lien shall be a first, paramount lien against such estate or interest subject only to the rights of any registered first mortgagee and any municipal or local authority in respect of unpaid realty taxes, assessments or charges of any kind against the Unit title or interest of such Owner. The Corporation shall have the right to file a caveat or encumbrance against the Unit title or interest of such Owner in respect of the lien or charge for the amount of such unpaid contribution, assessment, instalment or payment as hereinbefore mentioned, and for so long as such unpaid contribution assessment, instalment or payment remains unpaid, provided that each such caveat or encumbrance shall not be registered until after the expiration of thirty (30) days following the due date for the first payment in arrears. As further and better security against unpaid contributions, assessments, instalments or payments which are in arrears for more than thirty (30) days, the Owners shall give to the Corporation a mortgage or encumbrance for the full amount thereof and all contributions, assessments, instalments and/or payments, and interest thereon at the Interest Rate from the due dates for payment of the same, and the Corporation

shall be entitled to enforce its lien, charge and security and pursue such remedies as may be available to it by law or in equity, from time to time;

- (b) Any other Owner, person, firm, or corporation whatsoever may pay any unpaid contribution, assessment, instalment or payment after the expiration of thirty (30) days following the due date for payment by the Owner in default, with respect to a Unit, and upon such payment, such Owner, person, firm or corporation shall have a first, paramount lien, subject to the estates or interests hereinbefore mentioned and shall be entitled to file a caveat or encumbrance in respect of the amount so paid on behalf of the Owner in default, and shall be entitled to enforce his lien, thereby created, in accordance with the other terms and conditions of this provision;
- (c) Notwithstanding, and in addition to any other term, condition or provision herein contained or implied, each unpaid contribution, assessment, instalment or payment shall be deemed a separate, distinct and personal debt and obligation of the Owner against whom the same is assessed and collectible as such. Any action, suit or proceeding to recover such debt or to realize on any judgment therefore shall be maintainable as a separate action, suit or proceeding without foreclosing or waiving the lien, charge or security, securing the same;
- (d) In the event of any assessment against or instalment or payment due, from an Owner remaining due and unpaid for 30 days, the Board shall give notice of such default to all mortgagees having an interest in such Owner's Unit who have notified their interests to the Corporation;
- (e) In the event of any assessment against or instalment or payment due from an Owner remaining due and unpaid for a period of thirty (30) days, the Board, at its election, may accelerate the remaining monthly contributions, assessments, instalments and payments, for the fiscal year then current upon notice to the Owner in arrears, and thereupon all such unpaid and accelerated monthly contributions, assessments, instalments and payments shall become payable on and as of the date of the said notice;
- (f) All reasonable costs of the Manager and legal costs and disbursements incurred by the Corporation in registering and discharging a caveat or in any way securing its interest hereunder shall constitute a payment due to the Corporation.

#### **ESTOPPEL CERTIFICATE**

- 50. Any certificate as to the Owner's position with regard to contributions, expenses, assessments or otherwise, issued by an officer of the Corporation or the Manager shall be deemed an Estoppel Certificate and the Corporation and all of the Owners shall be estopped from denying the accuracy of such certificate against any mortgagee, purchaser or other person dealing with the Owner but this shall not prevent the enforcement against the Owner whether improperly stated in such Estoppel Certificate or not.

#### **LEASING OF UNITS**

- 51. In the event that any Owner desires to lease or rent his Unit he shall furnish to the Corporation an undertaking, in a form satisfactory to the Corporation, signed by the proposed lessee or occupant, that the proposed lessee or occupant of the Unit will comply with the provisions of the Act and the By-Laws of the Corporation. The Owner shall not be released of any of his obligations and shall be jointly and severally liable with the proposed lessee or occupancy with respect to such obligations.

52. The Corporation is authorized to:

- (a) impose and collect deposits under Section 53 of the Act;
- (b) give notices to give up possession of residential Units under Section 54 of the Act;
- (c) make applications to the court under Section 55 and 56 of the Act.

#### **DISTRIBUTION ON TERMINATION**

53. Subject to the provision of the Act, upon termination of the condominium status for any purpose, all debts of the Corporation shall first be paid out to the assets, and the balance of the assets, if any, shall be distributed to the Owners.

#### **EXCLUSIVE USE**

54. The Board may grant to an Owner a lease under Section 50 of the Act, or grant to the Owner the right to exclusive use and enjoyment of any Common Property, or special privileges in respect thereof, and on such terms with respect to maintenance thereof as the Corporation may direct. Any such grant shall be determined on reasonable notice, unless the Corporation by Special Resolution otherwise resolves.

#### **REALTY TAXES**

55. The realty taxes and other municipal and governmental levies or assessments against land, including improvements, comprising all or any part of the Units and the Common Property comprising the Residential Development shall be assessed and imposed in accordance with provisions of the Act, but until such time as the assessing authority assesses each Unit and the share in the Common Property appurtenant thereto, pursuant to the Act, such realty taxes and other municipal and governmental levies or assessments shall be apportioned according to the respective Unit Factors.

#### **INDEMNIFICATION OF OFFICERS AND MANAGERS**

56. The Corporation shall indemnify every Manager, officer or employee and his or her heirs, executors and administrators against all loss, costs and expenses, including counsel fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been Manager or officer of the Corporation, except as to matters which he shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence, willful misconduct or to have deliberately contravened or breached these By-Laws. All liability, loss, damage, costs and expenses incurred or suffered by the Corporation by reason, or arising out of, or in connection with the foregoing indemnification provisions shall be treated and handled by the Corporation as Common Expenses.

## NON-PROFIT CORPORATION

57. The Corporation is not or organized for profit. No member of the Board or person from whom the Corporation may receive any property or funds shall receive or shall be lawfully entitled to receive any pecuniary profit from the operations thereof, and in no event shall any part of the funds or assets of the Corporation be paid as salary or compensation to, or distributed to, or enure to the benefit of any Board member. The foregoing, however, shall neither prevent nor restrict the following:
- (a) reasonable compensation may be paid to any member or Manager while acting as an agent or employee of the Corporation for services rendered in effecting one or more of the purposes of the Corporation; and
  - (b) any member or Manager may, from time to time, be reimbursed for his actual reasonable expenses incurred in connection with the administration of the affairs of the Corporation.

## USE AND OCCUPANCY RESTRICTIONS

58. (a) In this By-Law and By-Law 59:
- (i) "Occupant" means a person present in a Unit or, in or upon the real property and personal property of the Corporation or the Common Property with the permission of an Owner;
  - (ii) "Owner" includes a tenant;
- (b) An Owner of a Residential Unit shall not:
- (i) use his Unit or any part thereof for any commercial or professional purpose or for any purpose which may be illegal or injurious to the reputation of the condominium project or for a purpose involving the attendance of the public at such Unit;
  - (ii) make or permit noise in or about any Unit or the Common Property which in the opinion of the Board is a nuisance or unreasonably interferes with the use and enjoyment of a Unit or the Common Property by any other Owner or Occupant. No instrument or other device shall be used within a Unit which in the opinion of the Board causes a disturbance or interferes with the comfort of other Owners;
  - (iii) keep or allow any animal, livestock, fowl or pet of any kind (other than birds, fish or small animals restrained at all times inside the Unit) at any time to be in his Unit or on the Common Property without the specific approval in writing of the Board, which approval the Board may arbitrarily withhold and may, if given, be withdrawn at any time on seven (7) days notice to that effect. All dogs approved must be hand leashed and kept under control at all times;
  - (iv) use or permit the use of his Unit other than as a single family dwelling or for a purpose other than for residential purposes;
  - (v) permit his Unit to be occupied as a place of residence by more than seven (7) persons (whether adult or minor) at any given time without the consent in writing of the Board;

- (vi) do any act or permit any act to be done which will alter the exterior appearance of the structure comprising his or any other Units;
- (vii) permit laundry to be hung outside the Unit;
- (viii) erect or place any building, structure, tent, or trailer, (either with or without living, sleeping or eating accommodation ) on the Common Property or on any exclusive use area assigned to him;
- (ix) permit, erect, hang over or cause to be erected or to remain outside any window or door or any other part of a Unit or on the real property of the Corporation, clothes lines, garbage disposal equipment, recreational or athletic equipment, fences, hedges, barriers, partitions, awnings, shades or screens or any other matter or thing without the consent in writing of the Board first obtained. No television, mobile telephone, radio antenna, tower or similar structure or appurtenances thereto shall be erected on or fastened to any Unit except in connection with a common television antenna or cable system as authorized by the Board and then only in accordance with the regulations therefore which may be established by the Board;
- (x) store any combustible, inflammable or offensive goods, provisions or materials in his Unit or on the Common Property;
- (xi) do anything or permit anything to be done in his Unit or upon the Common Property or the real property or personal property of the Corporation or fail to do any act or thing which will or would tend to increase the risk of fire or the rate of fire insurance premiums with respect thereto or which would render invalid any insurance maintained by the Corporation;
- (xii) do anything or permit anything to be done by an Occupant of his Unit in his Unit, or on the Common Property that is contrary to any statute, ordinance, By-Law or regulation of any government authority whether Federal, Provincial, Municipal or otherwise;
- (xiii) do or permit anything to be done that may cause damage to trees, plants, bushes, flowers or lawns and shall not place chairs, table, children's play things, devices, toys or other objects on the lawns and grounds, including the Common Property, so as to damage them or to prevent growth or to interfere with the cutting of the lawns or the maintenance of the grounds generally;
- (xiv) deposit customary household refuse and garbage outside his Unit other than in proper garbage containers and only on days designated for garbage collection;
- (xv) erect, place, allow, keep or display signs, billboards, advertising matter or other notices or displays of any kind on the Common Property or in or about any Unit in any manner which may make the same visible from the outside of the Unit without the prior approval of the Board;
- (xvi) permit any member of his household, guests or visitors to trespass on the part of the Common Property to which another Owner is entitled to exclusive use;

- (xvii) use any part of the Common Property other than a parking area designated by the Board or the Condominium Plan for the parking of any motor vehicles except in accordance with permission in writing from the Board;
- (xviii) wash cars in such a manner as will cause nuisance or annoyance to the Owners and in such place and at such times as the Board may from time to time regulate, set forth or direct and no repairs or adjustments to automobiles shall be carried out on the project, nor shall any vehicles other than private passenger automobiles be brought on to the project without the written consent of the Board or a member or a Manager or nominee thereof save in the course of delivery to or removal from the respective premises;
- (xix) allow trailers, campers, boat, snowmobiles, trail bikes, all terrain vehicles or equipment to be parked or stored other than in a Parking Unit or as designated by the Board;
- (xx) keep on the Common Property any private passenger automobile which is not in operating condition and being used from day to day;
- (xxi) drive any motor vehicle on the Common Property at a speed in excess of 15 kilometers per hour;
- (xxii) obstruct or permit any entry, hallways, walkways, passages, driveway ramps, driveways or parking areas to be obstructed by his family, guests or visitors;
- (xxiii) shake mops or dusters of any kind nor throw anything out any windows in his Unit or on the Common Property, nor permit anything of this kind to be done;
- (xxiv) make or cause to be made any structural, mechanical or electrical alterations or additions to his Unit or any load bearing wall, without first having the design and specifications of such alteration or addition approved in writing by the Board. Any alteration or addition made by an Owner without such approval may be restored or removed by the Board or its duly authorized representative and any costs incurred by the Corporation as a result thereof shall forthwith be paid by such Owner to the Corporation and shall bear interest at the Interest Rate, from time to time, from the date that such costs are incurred until paid;
- (xxv) use a toilet, sink, tub, drain or other plumbing fixture for a purpose other than that for which it is constructed;
- (xxvi) allow the area around his Unit to become untidy. The Board shall be at liberty to remove any rubbish or clean up the Common Property in close proximity to an Owner's Unit to its satisfaction and charge the expense to the Owner;
- (xxvii) use or permit any member of his household, guests or visitors to use any of the recreational or general amenity spaces except in accordance with any rules and regulations applicable thereto which may be established by the Corporation or the Manager;
- (xxviii) allow or cause any household or personal effects or articles belonging to him to be kept anywhere except inside his respective Unit when not in actual use, and each Owner will comply with all reasonable requests of the Board or its representatives that all



household or personal effects or articles, including bicycles, toys and like things belonging to an Owner or a member of his household be put inside such Unit when not in actual use;

- (xxix) prevent or prohibit access to and use of exterior water taps on his Unit for purposes of maintaining Common Property; and
  - (xxx) without the consent in writing of the Board, have any right of access to those portions of the Common Property used from time to time for utilities areas, building maintenance, storage areas not specifically assigned to him or any other parts of the Common Property or personal property thereon used for the care, maintenance or operation of the project generally;
- (c) An Owner shall ensure that his Occupants comply with those requirements that the Owner must comply with under subsections (a) and (b) hereof;
- (d) Restrictions on Occupation:
- (i) "Occupation", "Occupied" or "Occupancy" means a regular and ordinary presence in the Unit whether or not the person is frequently absent by reason of employment or ill health. A person shall be deemed to be an occupant if his or her Occupation of the Unit exceeds thirty (30) consecutive days or an accumulative total of sixty (60) days within a three hundred and sixty-five (365) day period;
  - (ii) notwithstanding subsection (i) of By-Law 58 (d) herein, the Board may authorize a person to occupy a Unit for specified periods for compassionate reasons. The permission granted by the Board may be revoked by a Special Resolution at a properly convened meeting of the Corporation;
  - (iii) in addition to any other remedy the Corporation may have, pursuant to Section 35 of the Act, each day that a Unit is occupied in contravention of this By-Law 58 (d) herein shall be interpreted to be a separate contravention under the Act.
- (e) **PARKING AREAS**
- (i) No Owner shall park his motor vehicle or automobile on any part of the Common Property unless the area is designated or allotted by the Board for his exclusive use;
  - (ii) A visitor may only park his motor vehicle or automobile in a stall designated by the Board for such visitor parking;
  - (iii) The Parking Unit(s) and plug-in facilities pertaining thereto (if any) assigned to any are for the sole use of the Owner of such Unit.
  - (iv) Each of the Residential Units and the Parking Units in respect thereof are hereby charged with the following restrictive covenants:
    - (a) an Owner of the Residential Unit who mortgages or otherwise encumbers such Unit shall also be deemed to have secured the Parking Unit in respect thereof, such that in the event the mortgagee or encumbrances is forced to realize on its

security and effects a sale or other disposition of such Unit, such sale or other disposition shall include the sale, right to use or other disposition of the Parking Unit;

- (b) an Owner of a Residential Unit or Parking Unit shall not sell, partition or otherwise divide any interest in the Parking Unit so as to diminish its size;
- (c) an Owner of a Unit shall not use the Parking Unit other than as a parking area for one standard passenger model, private operated motor vehicle with the prior written consent of the Board;
- (d) an Owner or occupier of a Residential Unit or Parking Unit shall not erect any structures, improvements or fixtures on or within the Parking Unit or alter or add to the Parking Unit without the prior written consent of the Board;
- (e) an Owner or occupier of the Residential Unit or Parking Unit shall not park more than one (1) vehicle of the type described in subparagraph (e) in the Parking Unit and shall not use those portions of the Common Property adjacent to the Parking Unit other than for access to an egress from the Parking Unit;
- (f) an Owner or occupier of the Residential Unit or a Parking Unit shall not allow the Parking Unit to become or remain in an untidy or unsightly condition: the Parking Unit shall at all times be kept in good and proper repair and the carrying out of any operations or privileges in connection with the easement granted herein will be done in a good and workmanlike manner and will cause as little damage and inconvenience as possible to the Parking Unit and to the other Parking Units, and if any damage is caused to the Parking Unit(s) by any party, such party shall restore the Parking Unit(s) to their former condition as far as is reasonably practical. The Board shall have the right of entry and access to any Parking Unit as may be necessary to permit repairs or maintenance thereof or to give access to the utility and service areas adjacent thereto;
- (g) an Owner or occupier of a Residential Unit shall indemnify and save harmless the Corporation from and against all fines, costs, suits, claims, demands and actions of any kind or nature to which the Corporation shall or may become liable or suffer by reason of any breach, violation or non-performance by such Owner or occupier of any covenant, term or provision hereof or by reason of any injury occasioned to or suffered by any person or damage to any property by reason of wrongful act, neglect or default on the part of such Owner or occupier or any of its servants, agents, contractors, tenants, occupants or invitees;
- (h) an Owner or occupier of a Residential Unit or a Parking Unit shall place and maintain, at its sole expense, in an amount and with an insurance company satisfactory to the Corporation in its sole discretion, a policy of public liability and property insurance insuring the Corporation and the Owner against all sums which either may become obligations to pay as damages by reason of injury to persons or damage to or destruction of property in or upon the Parking Unit allocated to and designated for a Residential Unit;

- (i) an Owner or occupier of a Residential Unit or a Parking Unit shall not park any vehicle in the Parking Unit which leaks excessive amounts of oil or grease or leaks any gasoline or which is, in any other way, offensive or hazardous;
- (j) an Owner or occupier of a Residential Unit or Parking Unit shall not use the Parking Unit in any manner inconsistent with any by-law, resolution or regulation of the Corporation relating to the use thereof, and shall not bring onto or leave thereon any equipment, material or other thing prohibited from time to time by any by-law, resolution or regulation of the Corporation;
  - (i) an Owner shall not sell, lease or otherwise dispose of any Parking Unit except subject to the restrictive covenants contained herein;
  - (ii) the Owner will observe the restrictive covenants contained herein so long as the Owner remains possessed of any Parking Units.
- (f) [Intentionally deleted].

(g) **FURTHER COVENANTS**

It is hereby further declared and prescribed that:

- (i) each Residential Unit shall be the dominant tenement to the Parking Unit allocated to and designated for the Residential Unit for the purpose of enforcing the restrictive covenants contained herein;
  - (ii) each Parking Unit shall be the servient tenement to the Residential Unit in respect of which it is allocated to and designated for the purpose of having enforced against it the restrictive covenants contained herein;
  - (iii) the Owner or occupier of any of the Residential Units may enforce the restrictive covenants contained herein against the Owner or occupier (including registered Owner, purchaser under agreement for sale and tenant) of any other of the Retail Units and such enforcement may be done without the consent or participation of the Owners of the remainder of the Residential Units;
  - (iv) the Corporation shall have status hereunder to enforce the restrictive covenants for and on behalf of one or more of the Owners of the Residential, upon being authorized to do so by a special resolution of the Corporation.
- (h) If any parking plug-in facility is provided with or in connection with any Parking Unit, any person given the right to exclusive use of such stall shall be responsible for keeping such facility in good repaired condition at all time during the period of such Owner=s entitlement to exclusive use; and in the event that the parking plug-in is damaged, it shall be the responsibility of the Owner to repair and if the Owner fails to repair, the Corporation may repair and charge to the Owner the full costs of repair, including if necessary, indemnification of the Corporation=s legal costs on a solicitor and his own client indemnification basis. Any repairs made by the Corporation of an Owner=s plug-in shall be a charge against the Owner=s Unit that necessitated the repairs.

- (i) No motor vehicle or automobile or any other obstacles may be left on or parked in the emergency access routes by an Owner or Occupier of a Unit.

#### **USE OF RECREATION AREAS**

59. The Common Property includes Recreation Facilities available for the use of Occupants and Owners. The Board may, from time to time, make rules and regulations governing the use of recreation areas by Occupants and Owners

#### **RELEASE AND DISCHARGE OF THE DEVELOPER**

60. Following substantial completion of any Building and its Amenities and transfer to the Corporation of the Common Property and Equipment related thereto, the Developer shall deliver to the Corporation an Architect's Certificate certifying the substantial completion of the Building and its Amenities and noting any deficiencies in connection therewith. Subject to completion of any deficiencies noted in the Architect's Certificate in compliance with the Developer's warranty provided for in By-Law 62 (b), the Corporation shall acknowledge to the Developer that the Developer is released from all liabilities to the Corporation in any way arising out of the construction and development of the Building and its Amenities.

#### **CONSENTS AND ASSURANCES BY CORPORATION**

61. Development as well as design and construction of the Buildings and their Amenities shall be within the sole control and discretion of the Developer without interference from the Corporation or any of the Owners. Neither the Corporation nor the Owners shall make any objections or take any steps to prevent, hinder or delay construction and completion of any of the Buildings or their Amenities. Notwithstanding anything in these By-Laws to the contrary the Developer shall have the right to enter into, execute and deliver all leases, exclusive use agreements and any other documents or assurances as the Developer may require. In such event, the Corporation shall be and is obliged and required to and shall assume, accept and be bound by an assignment of such leases, exclusive use agreements and all other documents or assurances as shall have been entered into by the Developer in contemplation of and completion of the Buildings or Amenities and in fulfillment of their obligations to Owners and others. A member of the Board or officer of the Corporation shall have the power on behalf of the Corporation with or without resolution of the Owners or the Board authorizing the same, to execute and deliver on behalf of the Corporation and, if required, under its seal, any such consent, plans, leases, easements, licenses, deeds, document or assurance required by the Developer and such member or officer so executing and delivering such instrument shall be fully exonerated and released by the Corporation and the Owners from any claim for so doing.

#### **USE OF COMMON PROPERTY**

62. (a) Subject to any rights of exclusive possession hereinafter provided and any regulations relating to the Common Property made by the Board each Owner and Permitted Occupant and the employees, agents and invitees of each such Owner and Permitted Occupant of a Residential Unit shall have the same non-exclusive rights-of-way over and use of the Common Property in common with the other Owners and Permitted Occupants and their respective employees, agents and invitees including for the purpose of ingress to and egress from the Residential Unit, as such persons would have with respect to the Common Property Unit as if it were common property

under the Act and the Corporation shall grant to the Owners and their successors and assigns such easements or licenses as may be necessary to give effect hereto;

- (b) Each Owner of a Residential Unit shall have the right to exclusive possession use and enjoyment of that portion of the Common Property consisting of the balcony or patio portion adjoining the said Residential Unit.
- (c) The Corporation shall grant such leases, easements or licenses as may be necessary to give effect to the rights of exclusive use provided for in this By-Law and the Board may grant to any Owner any such lease, easement or license permitting that Owner to exercise exclusive possession in respect of any other area or areas of the Common Property not in conflict with the rights of exclusive use previously provided for herein.

### **DEVELOPER RIGHTS**

63. During such time as the Developer is the Owner of one or more of the Units, it shall have the right to maintain all or any of the Units as display Units and carry on such sale functions as it considers necessary from such Units and, notwithstanding By-Law 51, to lease any Unit or any part thereof without the consent of or notice to the Corporation or the Board. The Developer, its agents, employees and invitees shall have rights-of-way over and use of the Common Property:
- (a) for the purpose of marketing the Units and for that purpose to maintain any displays or sales offices as the Developer may require; and
  - (b) for the purpose of completing any repairs, deficiencies or inspections to the Buildings, Amenities or Equipment or any part thereof and for that purpose shall have access to the Units.

Nothing in these By-Laws shall restrict the right of the Developer to install signs on the Common Property or in the windows of any Units owned by the Developer relating to the marketing of the Units.

### **DEVELOPER=S EXEMPTION FROM FEES**

64. Notwithstanding By-Law 47, no assessment for Common Expenses or the Capital Replacement reserve Fund shall be levied against the Developer as Owner of a Unit until completion of construction of the Building and the Units owned by the Developer are ready for residential purposes and actually occupied by a Purchaser;
- (a) The Corporation shall reimburse the Developer for any Common Expenses insured and paid by the Developer and the Developer shall be entitled to set-off from any assessments against the Developer as Owner of any of the Units any amount payable by the Corporation to the Owner with respect to Common Expenses until completion of construction of a residential building on the Unit and the building is used or ready to be used for residential purposes;
  - (b) Until the passing of a resolution pursuant to Section 39, of the Act, Administrative Expenses may be allocated on a basis other than in proportion to the Unit Factor of the Owners respective Units;

- (c) Neither the Developer nor a Purchaser shall be required to contribute to the Capital Replacement Reserve Fund or any other Reserve Fund (as defined in the Act) until the passing of a Resolution pursuant to Section 39 of the Act;
- (d) Notwithstanding that the Developer is exempt from payment of Administrative Expenses as set out herein, the Purchaser shall nevertheless ensure that, until the passing of a Resolution pursuant to Section 39 of the Act, any normal interim operational expenses to the extent not covered by contributions from the Purchasers shall be paid by the Developer, not on the basis of ownership or Unit Facts, but as a contribution to the Corporation.

### **SEVERABILITY**

- 65. The provisions hereof shall be deemed independent and severable and the invalidity in whole or in part of any By-Law does not affect the validity of the remaining By-Laws, which shall continue in full force and effect as if such invalid portion has never been included herein.

### **NOTICES**

- 66. Unless otherwise expressly provided in these By-Laws, service of any notice required to be given under the Act or under these By-Laws shall be well and sufficiently given if sent by prepaid registered mail to the Owner at the address of his Unit or if left with him or some adult person at the said address or to the Corporation at its address for service shown on the Condominium Plan, or to a mortgagee at its address supplied to the Corporation. Any notice given by mail shall be deemed to have been sent and received forty eight (48) hours after it is posted. An Owner or a mortgagee may at any time in writing advise the Corporation of any change of address at which notices shall be served or given and thereafter the address specified therein shall be deemed to be the address of such Owner or mortgagee, as the case may be, for the giving of notices. The word "notice" shall include any request, statement or other writing required or permitted to be given hereunder or pursuant to the Act or these By-Laws.
- 67. Where a mortgagee has notified the Corporation of its interest, any notice of default sent to an Owner shall also be sent to the mortgagee.

### **AMENDMENT OF BYLAWS**

- 68. Subject to Section 4(m), these By-Laws, or any of them, may be added to, amended or repealed by Special Resolution of the Corporation and not otherwise.



071396900

071396900 REGISTERED 2007 08 09  
CCBL - CHANGE OF BY-LAWS  
DOC 3 OF 3 DRR#: 2754900 ADR/VELJ10T  
LINC/S: 0032442980

3-6